THE

PROCEEDINGS

AT THE

SESSIONS

OF

Oyer and Terminer and Goal-Delivery

FOR THE

JURISDICTION

OF THE

Admiralty of *England*,

ON

Wedneſday the 14th and *Thurſday* the 15th of *December*, 1737.

Held at Juſtice-Hall in the *Old-Bailey*, before the Rt. Worſhipful Sir HENRY PENRICE, Knt. and others His Majeſty's Juſtices for the ſaid Juriſdiction.

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THE PROCEEDINGS AT THE

SESSIONS of *Oyer* and *Terminer* and Goal-Delivery, for the Juriſdiction of the ADMIRALTY of *England*, held at *Juſtice-Hall* in the *Old-Bailey*, before the Right Worſhipful Sir HENRY PENRICE, Knt. Judge and Preſident of the Court of the ſaid Juriſdiction; the Worſhipful Mr. Juſtice CHAPPEL, and others his Majeſty's Juſtices of *Oyer* and *Terminer* and Goal-Delivery for the Juriſdiction aforeſaid. *Nov.* 29, 1737.

THE Court being ſat, Proclamation was made for Silence, and his Majeſty's Commiſſion for holding the ſaid Seſſions was read; then the Names of the Perſons ſummon'd to appear on the Grand Jury being call'd over, the following Gentlemen were ſworn, *viz.*

George Arnold, Foreman.

John Shillet,
John Hanbury,
Thomas Wright,
Samuel Sedgewick,
Allen Webb,
Walter Hayter,
Thomas Smith,
Robert Wan,
Richard Ryder,
Francis Baker,
Richard Chadſley,
Thomas Bourn,
Caleb Hammond,
William Hall,
Thomas Wicks,
William Adey,
Thomas Bromskill,
Thomas Sherwood,
John Bardett,
Joſeph Lewen,
Henry Fines,
James Fowler.

Then the Court diſcharg'd them for the preſent and enjoin'd them to appear on *Wedneſday* the 14th of *Dec.* next.

After the Adjournment, Capt. *Sibſon* moved by Counſel, that he might be either try'd or diſcharg'd this Seſſions; he being bound by Recognizance to anſwer a Charge of Murder. The Proſecutrix (Widow of the Deceaſed) pray'd by her Counſel, that he might be continued on his Recognizances 'till next Seſſions, the Witneſſes for the Proſecution being at Sea. And the Court referr'd the farther Hearing of the ſaid Motion and Prayer, to the next Court.

The Grand Jury having laſt Seſſions found a Bill againſt *John Richardſon*, and he being now in Cuſtody, he was brought to the Bar and arraign'd. After which the Court adjourn'd to *Wedneſday* the 14th of *Dec.* next.

On *Wedneſday* the 14th of *Dec.* the Court being ſat, the following Perſons were ſworn upon the Jury.

Thomas Peſtell,
Samuel Chambers,
James Thomaſon,
Edgate Sandwell,
Edward Pink,
John Allen,
Benjamin Sabberton,
John Child,
John Adams,
Samuel Guillam,
John Wilkins,
William Benham.

Clerk of Arraigns. John Richardſon, hold up your Hand. Gentlemen of the Jury, look upon the Priſoner and hearken to his Cauſe. He ſtands indicted by the Name of

John Richardſon, late of *London* Mariner, for that he, together with *Richard Coyle* ſince execu-

ted,

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ted, *Caleb Larſon*, and *John Daviſon*, now at large, not having God before his Eyes, but being mov'd and ſeduc'd by the Inſtigation of the Devil, on the 26th of *Aug.* in the Ninth Year of his preſent Majeſty's Reign, he the ſaid *Richardſon*, *Richard Coyle*, *Caleb Larſon*, and *John Daviſon*, being then Mariners of and in the St. *John Pink*, of which one *Benjamin Hartley* was Maſter, with Force and Arms on the High Seas, within the Juriſdiction of the *Admiralty* of *England*, in Parts beyond the Seas, *viz.* 20 Leagues diſtant from *Padras*, on the ſaid *Benjamin Hartley*, then being Maſter, in the Peace of God, *&c.* and in the ſaid Ship, felonioufly, willfully, and of their Malice aforethought, did make an Aſſault, and *John Richardſon*, with both his Hands, him the ſaid *Hartley*, over the ſide of the ſaid Ship, felonioufly, willfully, *&c.* did lift and throw; and the ſaid *Benjamin Hartley* laying hold of the Lanniards of the Shrouds, on the outſide of the ſaid Ship, to preſerve himſelf from falling into the Sea, he, the ſaid *Richardſon*, with a certain Axe, which he held in his Right Hand, him the ſaid *Hartley*, ſo holding by the Lanniards aforeſaid, on the Top of the Head did divers Times felonioufly, willfully, and of his Malice aforethought, ſtrike; by Reaſon of which ſtriking, the ſaid *Hartley* fell from his holding by the Lanniards aforeſaid into the Sea, and in the Waters of the ſaid Sea was ſuffocated and drowned, of which ſuffocating and drowning, then and there the ſaid *Benjamin Hartley*, on the High Seas, and within the Juriſdiction aforeſaid, inſtantly died. And the Indictment farther charges, that *Richard Coyle*, *Caleb Larſon*, and *John Daviſon*, at the Time of committing the ſaid Murder, felonioufly, willfully, and of their Malice aforethought, were preſent, aiding, abetting, aſſiſting, maintaining and comforting the ſaid *Richardſon*, him the ſaid *Hartley*, to kill and murther. So the Indictment charges the Priſoner, that he (with others before named) him the ſaid *Hartley* in Manner and Form aforeſaid, did kill and murder, againſt the Peace of our Sovereign Lord the King, his Crown and Dignity.

On this Indictment the Priſoner has been arraign'd, and thereto has pleaded, Not Guilty, and for Trial has put himſelf on God and his Country, which Country you are; your Charge is to enquire whether he be guilty of this Felony and Murder or not Guilty. If you find him Guilty, you are to enquire what Goods, Chattels, Lands or Tenements he had at the Time of committing this Felony, or at any Time ſince. If you find him not Guilty, you are to enquire whether he fled for it; if you find he fled for it, you ſhall enquire of his Goods, Chattels, *&c.* as tho' you found him Guilty; and if you find him not Guilty, and that he did not fly for it, ſay ſo, and no more, and hear the Evidence.

Counc. My Lord, and you Gentlemen of the Jury.

This is an Indictment againſt the Priſoner for Murder, and the Indictment ſets forth, that the Priſoner on the 26th of *Aug.* in the Ninth Year of his preſent Majeſty, being a Mariner on Board the St. *John Pink*, on *Benjamin Hartley* Maſter, then being in the Peace of God, and our Sovereign Lord the King, on the High Seas, within the Juriſdiction of the *Admiralty* of *England*, 20 Leagues diſtant from *Padras*, did make an Aſſault, and that he the ſaid *Richardſon* with both his Hands, him the ſaid *Hartley*, over the Sides of the Sides, did lift and throw, and the ſaid *Hartley* laying hold of the Lanniards of the Shrouds to preſerve himſelf from falling into the Sea, he the ſaid *Richardſon* with an Axe, on the Top of the Head of him the ſaid *Hartley*, divers Time did ſtrike, by Reaſon of which ſtriking, he the ſaid *Hartley* fell from his Hold into the Waters of the ſaid Seas, and was drown'd, of which ſuffocating and drowning, he, the ſaid *Hartley*, then and there on the High Seas, and within the Juriſdiction aforeſaid died. To this Indictment the Priſoner has pleaded not Guilty, if we prove by our Witneſſes the Charge to your Satisfaction, we make no Doubt but you will find Guilty.

Counc. My Lord, and you Gentlemen of the Jury.

The Caſe under your Conſideration will appear in this Manner. In *January* 1733, the St. *John Pink*, a Ship belonging to *Yarmouth*, was loaded with Herrings conſign'd to *Leghorn*. She deliver'd her outward bound Cargo, and ſail'd from *Leghorn*. The Captain having received Directions from the Owners of the Ship to make Trading Voyages in the *Mediterranean*, he carried Corn from Port to Port, as he was ordered by ſeveral Merchants who were concern'd in her. 'Tis uſual for Mariners to be diſcharg'd at the Ports where they deliver their Cargo, by Maritime Law, when they unload, they are entitul'd to a Diſcharge, and other Perſons are hir'd in their Places. On the 25th of *Aug.* 1733, this Ship was at *Padras*, a Port in *Turkey*, there ſhe was loaded with Corn, and was bound to *Leghorn*. The Corn we ſay was part the Property of the Captain, and part of other Merchants. The Company in the Ship were the Maſter, (who we ſay was unfortunately murder'd)

Coyle

Coyle the Mate, who was executed ſome Time ſince, *Caleb Larſon*, a Mariner, *John Richardſon* the Priſoner, who was Carpenter of the Ship, and *Daviſon* the Cook. There were likewiſe 3 other Hands on Board; 3 Apprentices to the Maſter, who came out with the Captain, at the Beginning of the Voyage and proceeded all the Way with him. Their Names are *William Metcalf*, *William Durrant* and *Philip Wallis*.

After the Ship was loaded at *Padras* with Corn, ſhe proceeded on her Voyage; and on the 26th of *Auguſt* (which was the Day after ſhe ſail'd from *Padras*, about 2 o'Clock in the Morning, the Apprentices were aſleep in the *Cable-Teer*) (which I ſuppoſe, is the Place where the Cables are put, when they are not us'd) and they (*the Apprentices*) hearing a great Noiſe in the Ship, went up upon Deck, and ſaw their Maſter in the Fore-Shrouds begging his Life. I would not aggravate a melancholy, unfortunate Caſe; but would leave it to the Evidences to inform you, what were the Entreaties, which the poor Captain made uſe of, in the Shrouds, for the ſparing his Life. They preſented a Blunderbuſs at him, and endeavour'd to ſhoot him, but it happen'd not to go off. After great ſtruggling, and ſhifting from Place to Place, in order to ſave his Life, they brought him down from the Shrouds, and threw him over the Side of the Ship. The poor Man catch'd hold of the *Lanniards* of the Sails (which I take to be Ropes that the Sails are ty'd with) and as he hung on the Outſide of the Veſſel, they firſt ſtruck him with a Hen Trough; but that not being ſufficient to knock him from his Hold, the Priſoner, with a broad Axe ſtruck him on the Head, and the Blows were given with that Violence, that he was beat down and dropp'd into the Sea, where he was drown'd. After the Fact was committed, the Mariners took Poſſeſſion of all; they rifled the Captain's Papers, and they were to proceed as Proprietors of the Ship, to a Place call'd *Foviniano* (an Iſland belonging to *Spain*) to get Proviſion. At *Foviniano* they would have gone on Shore, but having no Bills of Health, they were not permitted to Land, ſo they were obliged to come back again. When they were return'd, the Apprentices in the Night, when the Mariners were aſleep (being under great Apprehenſion, that they ſhould be murder'd too) ſlipp'd out of the Ship into their Boat, and got aſhore, and diſcover'd this Matter at *Foviniano*. The Governor of the Place, ſent Officers to ſeize them, but they were all run away from the Ship, and left it without any Hand on Board. Afterward, *Coyle* was taken, who has ſuffer'd for this Fact. The Priſoner (ſince *Coyle*'s Execution) was taken, and you, Gentlemen, are to conſider whether he is Guilty of this Fact, or not. If it ſhall appear to you, that he did kill the Captain, you will find him Guilty; if it ſhould not—you will diſcharge him.

Counc. My Lord, and Gentlemen of the Jury!

The Priſoner ſtands before you, indicted for the Murder of the Maſter of the *St. John Pink*, Capt. *Benjamin Hartley*. He is charged, for that he, and one *Coyle* (ſince executed) and *Larſon* and *Daviſon* on the 26th of *Auguſt* (they then being Mariners in the Ship) did combine againſt the Maſter, and all agreed to drown him. The Fact the Priſoner is charg'd with, is the fouleſt of all Crimes. There was a Combination among them, and according thereto, they all aſſaulted the Maſter, and the poor Man, as 'tis Natural for every Man in ſuch Diſtreſs, endeavour'd to ſave himſelf from falling into the Sea: He took hold of the Lanniards, and there he hung: hoping he was ſhelter'd from their Fury; but the Priſoner came with an Axe, and ſtruck him ſeveral Blows on the Head as he was thus hanging, and made him quit his hold; upon which he fell down into the Sea, and was drowned. If our Witneſſes come up to what we have laid before you, you will find him Guilty. If they do not, you will acquit him.

Philip Wallis was call'd and ſworn.

Counc. Look upon the Priſoner; do you know him?

Wallis. Yes; I know him, his Name is *John Richardſon*.

Counc. Who was you Apprentice to?

Wallis. To Capt. *Benjamin Hartley*; he was at *Yarmouth*, when I firſt went into his Service. From *Yarmouth* we ſail'd to *Leghorn*, and there the Captain deliver'd his Cargo: the Priſoner did not then belong to the Ship: he was taken into the Service at *Ancona*, to go with us from thence to *Padras*, and from *Padras* to *Leghorn*, and he accordingly ſail'd with us from *Ancona* to *Padras*.

Q. Was there any Mutiny, or Combination among the Sailors, while you was at *Padras*?

Wallis. Not as I know of. I never heard any Thing of it, 'till we came to Sea from *Padras*; between *Padras* and *Leghorn* The firſt Night after we came out of the Harbour, the Fact was committed: between one and two o'Clock. One of my fellow Servants, and I, were aſleep in the *Cable-Teer*: he told me he hearing a great Shriek, 'wak'd me, and ask'd me what was the Matter.

Priſoner.

Prisoner. Speak out, —— you have got Plumbs in your Mouth.

Wallis. Upon this, we got up and went upon Deck, the *Dutchman Larson*, immediately jump'd down and handed up two Blunderbusses, from under the Mate's Cabbin; one of which he gave to the Mate, *Coyle*; the other he kept himself.

Q. Larson jump'd down between Decks you say.

Wallis. Yes; he was upon Deck, when I came up.

Counc. Where was the Captain when you first saw him?

Wallis. He was in the Fore-shrouds, in his Shirt, calling out to *Coyle*, —— *Dear Me. Coyle, are you against me! Coyle* told him, *Yes, he was, and that it was a Thing consulted on by all the Ship's Crew, and that over-board he should go.* Then the Captain call'd to the Prisoner, and asked him, if he was against him too? The Prisoner told him no; I am not. He had his broad Axe in his Hand at the same Time. After this, the Prisoner and *Larson* follow'd the Captain up the Fore-shrouds to the Fore top; the Prisoner with his Ax, and *Larson* with the Blunderbuss, went up on the Fore-yard. The Captain begg'd, *for God's Sake, that they would spare his Life*: and the *Dutchman* ask'd him, if he would forgive him? The Captain told him, he would forgive them, if they would but spare his Life, and he put out his Hand, to shake Hands with him; but the Prisoner told the *Dutchman*, if he offer'd to shake Hands with the Captain, he would *clive* (cleave) him down with his Ax. All this while, *Coyle* the Mate stood below, swearing, and calling out to them, —— why they did not bring him down, —— why they stood talking to him. Upon which the Prisoner d——d the Captain, and told him, *if he did not get down, he would cleave him down.* He begg'd he might have four Hours by himself, but they deny'd him, so he slipp'd down the Fore-top Mast back Stay, and as he came down, *Coyle* snapp'd his Blunderbuss at him, but it missing Fire, he ran to him, and snatch'd it from him, and flung it from him, and *William Metcalf* kick'd it over-board. Then they all came up to him, —— the Prisoner, *Coyle*, and *Larson*, seiz'd him directly, and flung him over the Gang-way. As they were tossing him over, he caught hold of the Lanniards of the Ship, and there hung on the outside. While he was hanging, he call'd out to us, *Boys! Boys! can't you do any Thing for me!* I told him no, and we begg'd they would spare his Life, but the Prisoner d——d us, bid us get out of the Way, if we did not, he would knock us down. Then *Coyle* got hold of the Chicken-Trough, but I did not see him strike my Master with it. The Prisoner I saw strike him two Blows on the Head with his Ax; the Captain cry'd out —— *he was a dead Man*; the Prisoner gave him a third Blow, which made him let go his Hold, and he sunk down directly. This was between One and Two o'Clock in the Morning.

Counc. What happen'd afterwards?

Wallis. As soon as the Murder was committed, and the Captain was dead, they came to us and asked us what we cry'd for? telling us, they would not hurt a Hair of our Heads, if we would *keep our Tongues in our Mouths*, and go along with them. There was a *Spaniard* at the Helm, while they were busy with the Captain; and when all was over, the Prisoner went to him and said, d——n you, why did not you come and assist us? Says the *Spaniard*, I was looking after the Ship. Let the Ship go to Hell, (said the Prisoner) you should have come to have assisted us. After this, the Prisoner went down and broke the Captain's Scrutore.

Q. How long did you remain on board, before you had an Opportunity to get away?

Wallis. 'Twas about 17 or 18 Days before we made Land. The first Land we made was the Island of *Malta*. They were for going ashore there, but before any of them put off, the Prisoner went down to the Cabbin for the Articles, and would have perswaded us to sign them. We refus'd; upon which he said, to the rest of the Ship's Company, d——n you, —— bear away; we'll be even with them; we'll put out to Sea and keep them aboard. After we had sign'd, they did not go into that Harbour; but in four or five Days afterward, they put into *Pochiano*. The first Night they did not go ashore; the Anchor came Home, and the Ship drove. But next Day, *Coyle* went ashore in the *Yawl*, along with the *Greek* and the *Spaniard*, to see for fresh Provision, and Liquors. They could get nothing on Shore but Water.

Q. Where did you and the other Lads go ashore?

Wallis. We got ashore on that Island. The next Night about 12 o'Clock, *Metcalf*, was upon Watch on Deck, and when he found them all asleep, he wak'd us, and we all got into the Boat, and got ashore. Before we came ashore, the Soldiers hal'd us, and would not let us come ashore; we told them what had been done in the

Ship; they acquainted the Governor, and he got out of Bed and order'd us aſhore, and after he had examined us, he ſet twenty Soldiers to look after us that Night. About an Hour after we were on Shore, I could perceive them in the Ship, running about, *fore* and *aft*, with a Light, and they hauld up the Long Boat, and put what they could into it. The next Morning we went aboard with thirteen Soldiers, but the Ship's Company was all gone, and there was no Soul on board.

Counc. Look upon the Priſoner again; are you ſure he was the Carpenter that ſtruck the Captain with his Ax?

Wallis. Yes; I am certain he is the Man.

Q. You ſay they all went away in the Long-Boat; you went away in one; had you two Boats belonging to the Ship?

Wallis Yes; and when we took one, they lay both a-ſtern of the Ship.

Priſoner. Is it poſſible for me to be aboard this ſaid Veſſel, when I belonged to Capt. *Matthew Norris* in another Pink? I don't know this Fellow, nor any that belongs to him. He may ſwear what he pleaſes, but I never was up the *Mediterranean*, with any *Engliſh* Commander in my Life. I defie any *Engliſh* Mariner to ſay, that I, *John Richardſon* ever belonged to any *Engliſh* Ship in the *Mediterranean* in my Life.

William Metcalf, was call'd, and ſworn.

Counc. From what Place did you ſail in the *St. John Pink?*

Metcalf. From *Yarmouth*; when I was firſt bound Apprentice. From thence we ſail'd to *Legborn*, and deliver'd Herrings. From thence we went to a Place called *Dimmiato*, and from thence to *Legborn*, where we deliver'd our Cargo; then we proceeded to *Salonica*, and from thence to *Ancona*, where we ſhipp'd the Priſoner.

Q. What Time was that?

Metcalf. I don't know certainly. It was the latter End of *July*, that he was ſhipped at *Ancona*, and from the Time that he came on board, as Carpenter, to the committing the Murder, was about 26 Days. From *Ancona*, we went to *Padras*, for Corn, and on *Monday* Morning about Ten, we ſet out for *Ancona* again, in which Paſſage, they kill'd the Captain. I ſaw the Priſoner do it, and was ſtanding cloſe by him when it was done.

Q. What Time was it done?

Metcalf. Between 1 and 2, on *Tueſday* Morning. The Captain's Watch being out, he went down to his Cabbin to ſleep: the Priſoner was in the Captain's Watch, but he did not go down to ſleep as uſual, but ſtaid upon Deck. About 1 or 2, while I was upon Watch, the Priſoner and *Larſon*, went down to the Captain's Cabbin, to kill him with a Knife, but the Captain waking, got from them and ran upon Deck, and they after him. Then *Larſon* went down again for 2 Blunderbuſſes, one of which he gave *Coyle*, and the other he kept himſelf.

Counc. Was you in the Captain's Watch?

Metcalf. No; I was in the Mate's Watch; the Captain's Watch was out, his was the firſt Watch, and he was gone to ſleep.

Q. Did you ſee the Priſoner and *Larſon* carry down the Knife, to kill the Captain?

Metcalf. No; but I heard the Priſoner ſay, that he, and *Caleb Larſon* went down into the Cabbin, to kill him with a Knife; that one of them took hold of him, and the other put the Knife to the ſoft Part of his Belly, but the Knife bent, and he ſtruggled and got from them, out of the Window in the State Room, and ſo upon Deck. Then *Larſon* went down between Decks, and got 2 Blunderbuſſes, and gave one to *Coyle*, the Mate; the Captain then ran forward and cry'd, —— *my dear Mr.* Coyle, *are you againſt me*! He told him Yes; upon which, he ran up the Fore-ſhrouds, and the Priſoner and *Larſon* followed him: He beg'd for Mercy, they ſaid, he muſt and ſhould go over-board.

Q. Who ſaid he muſt and ſhould go over-board?

Metcalf. The Priſoner ſaid overboard he muſt go, and overboard he ſhould go.

Counc. How long did the Captain continue on the Shrouds?

Metcalf. About half an Hour, and he all the Time beg'd them to ſave his Life, but the Priſoner told him, he muſt go overboard. Then he begg'd *Larſon* to ſhake Hands with him, and *Larſon* put out his Hand, but the Priſoner held up his Ax, and ſaid, if he touched his Hands, he would cleave his Brains out. The Captain then ſlipp'd down on Deck, by the Lee-ſhroud or Back-ſtay, and as he came down, *Coyle* ſnapp'd his Blunderbuſs at him, but it did not go off. The Captain ſeeing this, ran to him, and got it from him, and flung it over-board; after this, the Priſoner and *Coyle*, and *Larſon*, laid hold of him, and put him over the Side of the Ship, but he catch'd hold of the *Lanniards* and held faſt. *Coyle* with the Hen-coop ſtruck him 3 Times, —— 2 or 3 Times, but I don't know whether 'twas on the Head or Shoulders; then the Priſoner came and ſtruck him over the Head with an Ax 3 Times; he cry'd I am a dead Man and fell down into the Water,

Water. I look'd over the ſide of the Ship immediately, and ſaw no more of him. After the Priſoner had kill'd the Captain, he went down into his Cabbin, and broke open the Scrutore and took ſeveral Things of Value,—the Captain's Ring, a repeating Watch, and put them in his Pocket.

Counc. How did you get aſhore?

Metcalf. We were ſeveral Days before we made Land: the firſt Land we made was the Iſland of *Malta*; there they deſign'd to go in, and the Priſoner before he reſolv'd to go on Shore, went down into the Cabbin, and drew up Articles; he order'd us to ſign them, which we were very loth to do, but he told us, if we did not ſign them we ſhould go the ſame Way with the Captain, *Coyle* ſaid no, we ſhould not,—they would not kill us, but as long as there was a bit of Beef or a drop of Water on Board, they would keep the Ship out at Sea, and would ſtarve us to Death. After this, we came down the *Streights*, and met with contrary Winds, and wanting Proviſions, we put into *Foviniano*, and the next Day, *Coyle* the *Greek* and *Davis* went aſhore, but the Governor told them, he could not ſupply them with Proviſions, becauſe they had no Money. *Coyle* came on Board, and told the Priſoner what the Governor ſaid, upon which he, (the Priſoner) took the Captain's Watch and Spoons, and what Plate there was, and offer'd the Governor, who refuſed them, and ſaid he could take nothing but Money, nor could we have any Thing but Water. They went to fill Water, and I went with them, and the following Night when they were all aſleep, I call'd my Fellow Servants and the *Greek*, and we got a-ſhore and betray'd them.

Q. What happen'd afterwards? Did the Priſoner continue on Board?

Metcalf. We had not been a-ſhore above an Hour, or an Hour and half, before we ſaw them with a Light upon Deck, hauling up the Long-Boat, and putting ſome things into it; after which, they got into it themſelves, and away they went; the Soldiers ſeeing them making off in the Boat, fired 20 or 30 Muskets upon them, but they got off, and I heard no more of them 'till *Coyle* was taken in *Tunis*, and *Richardſon* the Priſoner in *Meſſina*.

Counc. Had you any Talk with the Priſoner at *Meſſina*?

Metcalf. No, I had no Diſcourſe with him,—only a Word or two; I did not talk much to him. The Reaſon we went to him was, that the Conſul ſent for us, to know by us, whether he was the Man.

Priſoner. The Reaſon was,——why I never was in *Meſſina*, nor in *Sicily*,——where *Meſſina* is. Pray when did you ſee me at *Meſſina*?

Metcalf. I cannot tell the Month, but 'twas about 3 Months after the Captain was murder'd, and he was murder'd the 26th of *Auguſt*.

Q. Did the Priſoner own at *Meſſina* that he knew you?

Metcalf. Yes, there was a young Merchant went with us to him, and he asked him if he knew us, and the Priſoner ſaid,—yes, I believe I do.

Priſoner. I have no more Queſtions to ask him,—for I know him not, therefore how can I ask him any Queſtions.

Q. Are you ſure the Priſoner is the Man?

Metcalf. Yes, I am ſure the Priſoner is the Man that I have given Account of; he was our Carpenter, and caulk'd the Ship.

Priſoner. Why, I never was a Carpenter in my Life, nor did I ever know what belong'd to an Ax or an Adz, in all my Days.

Metcalf. I am poſitive you are the Man.

William Durrant was call'd and ſworn.

Counc. Did you belong to the Ship of which *Hartley* was Maſter?

Durrant. Yes, I was Capt. *Hartley's* Apprentice, and went with him from *Yarmouth* to *Leghorn*, and from *Leghorn* to *Dimmiate* in *Turkey*, and from thence to *Leghorn*, and next to *Ancona*, where two of our Hands leaving us, we ſhipp'd the Priſoner as Carpenter, and went from *Ancona* to *Padras*. On the 25th of *Auguſt* about 10 in the Morning, we ſail'd from *Padras*, and all that Day we were buſy in clearing the Decks. The Captain and I watch'd that Night from 8 to 12; then we went to ſleep. (This was in our Paſſage from *Padras*.) We had not been aſleep (as I thought) above an Hour, but I heard a Noiſe upon Deck, and I wak'd *Wallis*, and ask'd him,——what was the Matter upon Deck? He ſaid, he did not know, ſo we lay down again about half a Minute longer; then hearing the Captain ſhriek, we ran upon Deck, and ſaw *Coyle* ſtand upon the *Gratings* with ſomething in his Hand, and he attempted to hit us, we dropp'd down again; but when he ran forwards we got upon Deck, and ſaw the Captain coming down the Shrouds in his Shirt.

Counc. Did you ſee him go up the Shrouds?

Durrant. No, I did not.

Counc. Did you ſee any Body on the Fore-top?

Durrant. No, I ſaw no one on the Fore-top, but I ſaw the *Dutchman Lawſon* in the Shrouds.

Counc. Did you hear them ſay any Thing to the Captain?

Durrant.

Durrant. No: but when the Captain came down, I saw *Coyle* present the Blunderbus at him, but it did not go off; then the Captain ran to him, and haul'd it out of his Hands, and hurl'd it on the Stern Part of the Ship, and *Metcalf* kick'd it over-board. Then the Prisoner and the rest of them, flung him over the Side of the Ship; but he caught hold of the Lanniards and there hung. *Coyle* took up the Chicken-trough, and struck him with it, but that did not make him let go his Hold; so the Prisoner with his Axe hit him 3 Times over his Head, and the third Blow crack'd his Skull, all to Pieces. He struck him once or twice, and then he cry'd out, *I am a dead Man*; at the third Blow he dropp'd down. After this they went down, and broke open the Captain's Scrutore, and burn'd all his Writings.

Counc. What Land did you first make, after the Murder was committed?

Durrant. The Island of *Malta*; there the Prisoner was for going ashore, and *Coyle* consented to it, but before they went ashore, they insisted upon our signing their Articles. We refused, and the Prisoner said, he would serve us the same Sauce, with the Captain; no says *Coyle*, we'll keep the Ship out at Sea, as long as they had a Piece of Beef or Water on Board, and we'll starve them to Death.

Counc. Did they go ashore at *Malta*?

Durrant. No: but 5 Days after, we made the Island of *Fourniano*, and wanting Provisions we put in there. *Coyle* dress'd himself in the Captain's Cloaths and went ashore; the Governor would not let them have any, so next Day the Prisoner went, with the Captain's Watch and Rings, because they had no Money, but he return'd aboard, and told them, that he could not have Provisions for any Thing but Money.

Q. How did you escape?

Durrant. At Night about 12, *Metcalf* came to call us: he and *Wallis* got into the Boat, and I put the Oars into the Water, and let them drive to the Boat; then I got in, and we row'd to the Shore; the Soldiers refus'd to let us Land, but I told them what had happen'd and they call'd up the Governor, who examin'd us that Night. About an Hour and half after we were on Shore, I saw them haul up the Boat, and they all got into it; as they were going off in the Boat, the Soldiers fir'd above 20 Muquets at them, but none reach'd them, so they all got off.

Counc. Did you go on Board afterwards?

Durrant. Yes, Next Morning, but every Soul of them were gone.

Q. Where did you see the Prisoner next?

Durrant. At *Messina*: I was at *Legborn* and I was sent for to *Messina*, to inform those that had taken the Prisoner, if he was the Man, or not. I went to *Messina* in a Brig. and saw the Prisoner and spake to him there. He knew me immediately, and said——G—d d——mn you, if I had known as much then, as I do now, you should not have been here. These were the very Words he said to me, and two Captains of Ships were with me.

Counc. The Prisoner says, he never was at *Sicily* in his Life.

Durrant. I saw him there, and spake to him at the Grate; he was then in Prison.

Counc. How long is this ago?

Durrant. About a Year and a half.

Prisoner. I have nothing to say to him, for I never saw him before with my Eyes.

Counc. Recollect your self—— are you sure the Prisoner is the Man?

Durrant. Yes: I am positive he's the Man.

Q. How long was he Carpenter in your Ship?

Durrant. He was not a Month on Board the Ship, that I am certain of; but at *Ancona*, he caulk'd the Vessel as Carpenter. We were then in our Quarentine, and had not a Carpenter on Board, so we were willing to get one to do the Work of the Ship.

Prisoner's Defence.

Please you my Lord, and Gentlemen of the Jury.

Is it possible for me to have been at *Sicily*, when I was on Board the *Tartar Pink*, Capt. *Matthew Norris*. I left *England* in the Year 1734, I was then Carpenter's Mate, on Board the *Norfolk* Man of War, and from that Ship, I went aboard the *Tartar*.

Jury. The Prisoner said, he never was a Carpenter in his Life.

Prisoner. They call'd me Carpenter's Mate, tho' I knew nothing at all of the Business.

Jury. (*To Durrant.*) Did you converse with the Prisoner on Board?

Durrant. Yes; we us'd to mess together. I should have known him by his Voice, if I had not seen him.

Prisoner. You know me!——Is it possible I should belong to this Ship, the *St. John Pink*, when I went out of this *English* Ground——out of this *English* Land, in *March* 1734 to *New York*, in *America*, and got there in *July*, the first of *July*. I never was out of the *American* Parts, but four Months, I was lay'd up 4 Months, nay, I lay up ——

a Year, and never was out of the Place, till *June* 1736 that I came to *Amſterdam*. I never was up the *Streights*, with any *Engliſh* Commander, in the Univerſe, but defy any one to ſay that *John Richardſon* was ever up the *Mediterranean*. 'Tis my Misfortune——I am a Stranger here, and have no Witneſſes, nor Merchants here: if I had, doubtleſs they would appear for me, therefore I deſire, that my Trial may be put off, till Capt. *Matthew Norris* comes Home, and he will juſtify what I ſay to be true, to all the Ship's Company. I am an entire Stranger here, and know no Body, but when *Matthew Norris* comes Home——he's a Man with one Arm, and is now at *New-York*, where I was born and bred, and I have no Body here, to take my Part, or to do Buſineſs for me. I have no Friends in the Univerſe,——not one in *England*.

Q. How came you hither?

Priſoner. If it pleaſe you, I left *New York* in the Year 1736 and came to *Amſterdam*, there I le't the Commander, and the Ship, and went aboard a *Dutch* Veſſel for *Smyrna* and *Conſtantinople*. I left the *Dutchman* at *Conſtantinople* and went to *Venice*, and from thence to *Rome*, where I have a particular Acquaintance; from *Rome* I came down 40 Miles to a Ship, the Captain's Name was *Peter Blomet*, he came from *Yarmouth* on New-Year's Day at Night. This *Blomet* invited the reſt of the Commanders, and my ſelf to come and ſup with him on Board his Ship. We all waited on him, and between 12 and 1 in the Morning, they all went aboard their own Ships. I could not get into the City, becauſe it was a wall'd City, and I had lain aboard many Times before. After the reſt of the Commanders were gone, he deſir'd us to bring him his Papers out of his Scrutore, and he gave them to me to read; at laſt he came to a Letter that had been ſmoak'd, and I read that, and ſaw the Name of *John Richardſon* in it; while I was reading it, he ſtarted up and went into the Steerage, and came in again and ſeized me, and ty'd my Hands behind me; then put me into the *Hold*. Next Day he went aſhore and got a Pair of Irons, and put them on my Legs. Between 12 and 1, next Day, he carry'd me aboard a Veſſel bound for *Leghorn*, and the Conſul deliver'd me on Board the *Durſley* Gally. And from the *Durſley* Galley, I was put on Board the Packet Boat for *Falmouth*, and from thence I was brought to *London*. As for theſe Men, I never ſaw them with my Eyes; and how could I ſhip my ſelf as Carpenter, when I was *Boſton's Mate* with Capt. *Norris*. My Name is in the *Admiralty Books*, and is there to be ſeen at all Times.

Q. When was you on Board the *Norfolk*?

Priſoner. In the Year 1734, one *Roberts* was Captain, and when he laid down his Commiſſion, I went into another Ship. I never was out of *New-York* till the Year 36. 'Tis very hard a Man's Life muſt be taken away on his Name.

Francis Bulſon. I was Commander of the *Charming Sally*, and can give ſome Account of the Priſoner, I ſaw him at *Civita Vecchia*, but Captain *Blomet* knew him at *Meſſina*; I took him and found the Handcuffs with which he was iron'd. I could give a very exact Account of the Time when, and the Manner how he was taken, but I have not my Journal with me.

John Rogers. I know the Priſoner: I ſaw him and ſpoke to him at *Meſſina*, when he was in Goal there: and I believe he knows my Face again.

Priſoner. I know your Face! I know no ſuch Blackguard Faces as yours is. I am a Stranger to the World——to this Place at leaſt. I am a *New-Yorker*, and have nothing more to ſay. How can I ſay any Thing, when I know nothing.

Mr. *Rogers*. I ſpoke to the Priſoner in Goal at *Meſſina*, and told him, I hop'd I ſhould ſee him ſwing at *Execution-Dock*. I am ſure he's the ſame Perſon, but he's ſomething alter'd——he's ſomething thinner than he was when I ſaw him there.

The Jury found him Guilty. **Death.**

The Grand Jury now return'd into Court and found——a true Bill againſt **Richard Ignell** otherwiſe **Connell**, for *Felony* and *Murder*. A true Bill againſt **Robert White** and **James Ware** for *Felony* and *Murder*. A true Bill againſt **Edward Fartel** for wilfully deſtroying and caſting away a Ship.

2. **Richard Ignell** otherwiſe **Connell**, late of *London* Mariner, ſtands indicted, for that he not having the Fear of God before his Eyes, &c. on the 7th of *May*, in the 6th Year of his preſent Majeſty's Reign, with Force and Arms, on the High Seas, and within the Juriſdiction of the *Admiralty* of *England*, half a League, or thereabouts from *New-haven*, in *Suſſex*, on *John Wood* the Younger, then and there being in the Peace of God, and our Sovereign Lord the King, and in a certain Boat, on the High Seas, as aforeſaid, and within the Juriſdiction aforeſaid, felonioufly, wilfully, and of his Malice aforethought did make an Aſſault, and with a certain Muſquet, val. 20 *s.* which he the ſaid *Ignell* held in his Hands; him, the aforeſaid *Wood* the Younger, in and upon the Body, &c. felonioufly, &c. did ſtrike; by Rea-

ſon of which ſtriking, the ſaid *Wood* the younger, fell from and out of the ſaid Boat into the Seas, and in the Waters of the ſaid Seas was ſuffocated and drown'd, of which ſuffocating and drowning, he the ſaid *Wood*, &c. on the High Seas aforeſaid, and within the Juriſdiction aforeſaid, inſtantly died. So the Jurors charge on their Oaths, that he the ſaid *Wood*, feloniouſly, willfully, and of his Malice aforethought, did kill and murder, againſt the Peace of our Sovereign Lord the King, his Crown and Dignity. How ſay you *Richard Iguell*, are you Guilty of this Felony and Murder whereof you ſtand indicted.

Priſoner. Not Guilty.

Clerk. *Culprit* how will you be tried?

Priſoner. By God and my Country?

Clerk. God ſend you a good Deliverance.

The Councel for the King having open'd the Indictment, another open'd the Charge, as follows,

Counc. The Priſoner *Richard Iguell* ſtands charg'd with the Murder of *John Wood* the younger, an Officer of the Cuſtoms, call'd a Boat-man, belonging to the Port of *New Haven*. The Caſe, Gentlemen, will come in this Manner. On the 6th of *May* 1733, one *Richard Burleigh*, who was a Perſon that traded in Wine and Brandy, on the Coaſt of *Suſſex*, had a Ship lay half a League from the Shore, with theſe Goods on board; (to be diſpos'd off in a particular Manner I ſuppoſe). The Priſoner was ſent by *Burleigh*, or ſaid he was ſent by *him*, to acquaint Perſons on Shore, that there was Brandies to be ſold on Board that Ship, and accordingly gave this Notice on the 6th of *May*. On the 7th——the next Night, ſome who dealt in theſe Commodities went on Board; I will not mention what manner of Trading this was,—— you will judge whether it was a lawful or an unlawful Trade; but on this Night they went on board; it was then very Star light, and at Sea they can ſee farther when the Nights are Starlight than on Land. The Perſons that went on board were, *Nicholas Rawley*, *Richard Hood*, and *Samuel Young*, who was the Man that row'd the Boat, to carry the other two on board, in order to Trade. In the Way to the Ship, they call'd upon the Priſoner, on board of a Collier, to go along with them. They all went accordingly to the Ship, which lay about a Mile and a half from *New-Haven*, and bought 20 half Anchors of Brandy, and a Cask of Wine, which they put into the Boat, and made off for the Shore as faſt as they could; but perceiving the Cuſtom Houſe Boat coming out, in which was the Deceaſed, (who was an Officer call'd a Boat-Man.) *Thomas Walker* and *John Swain*, theſe People, who had been trading on board the Veſſel, apprehending that this was the *Cuſtom-Houſe* Boat, they endeavour'd to get back to the Veſſel; and in order to do this the eaſier, they threw the 20 half Anchors of Brandy, and the Cask of Wine into the Sea. The *Cuſtom houſe* Boat came up with their Boat, and finding nothing on board her, they left her, to take up the Casks which floated; they took up 7 into their Boat, and then they obſerv'd another Boat a-drift, about 100 yards from the Ship, and they row'd after it. When they came up with this Boat, they found no one in it, (probable the People that had been carrying on this Trade had quitted it, ſeeing the *Cuſtom-houſe* Boat) but it was loaded with half Anchors of Liquor, and the Deceaſed was put on board this Boat, and it being loaded with Goods, unlawful to be put on ſhore, but with a proper Officer, the Deceaſed was order'd to row it aſhore. The ſmuggling Boat which had been endeavouring to get aſhore, had put back again to the Ship, and the Maſter of the Ship told them he was ſorry for their Misfortune, in loſing the Goods, their trading Cargo, and he would(he ſaid) make them ſome Amends,and would give them 10 other half Anchors. Upon this they went o'long ſide the Ship; *Rawley*, *Hood*, *Young* and the Priſoner were in the Boat; and *Burleigh* the Maſter of the Ship handed out a Musquet to the Priſoner, and 3 Handſpikes to the others, in order to their recovering the Goods that were carrying aſhore. *Young* fearing Miſchief might enſue, endeavour'd to get into the Ship, but the Priſoner prevented him; upon which he (*Young*) ſat down in the Stern of the Boat, and the reſt row'd to overtake the Boat of Goods that the Deceaſed was in. The Priſoner was in the Head of this Boat that purſu'd the Deceaſed, with the Musquet in his Hand. While they were purſuing him, *Walker* and *Swain* endeavour'd to get up to the Deceaſed to aſſiſt him; but the Priſoner having a Musquet cock'd, he endeavour'd (when he came within 10 Yards of the Deceaſed) to ſhoot him, but the Muſquet did not go off. The Deceaſed deſired them to be eaſy, and held up his Hands to defend himſelf, but the Priſoner ſtruck at him, and beat him over board with the Muſquet, by which Means he was drown'd. This is the Evidence to be laid before you in all its Circumſtances. If this was an irregular, unlawful Act, it will be an Aggravation of the Fact, that the Deceaſed was doing his Duty as an Officer, and that he was knock'd on the Head (while he was doing his Duty) by People engag'd in an illegal Trade.

After

After the Fact, they went back to the Ship, and *Burleigh* (the Captain) blam'd them much for what they had done, and asked them, how they could kill the Man. We shall shew you, that the Deceased's Friends endeavour'd to take him up, after he was knock'd over-board, but that he sank down directly. If we verify these Facts, in all their Circumstances, you, Gentlemen, will find the Prisoner guilty; if we do not, —— you will acquit him.

Counc. I am Counsel for the Crown upon this Occasion. You, Gentlemen have the Prisoner before you, to be try'd upon a Question of Murder, committed upon the High Seas, about a Mile and a half from the Harbour of *New Haven*. The Fact was committed on the High Seas, which is the Reason he is try'd before a Court of *Admiralty*, and not at the usual *Sessions*, by *Common Law*. The Evidence that must arise, to convict him here, must be the same as would convict him, in any other Court. The Question for your Consideration, is, whether he be guilty of this Charge, or not. The Prisoner will appear to you, to have been concern'd in an unlawful Undertaking; not that that is necessary to your finding him Guilty; because, let him be concern'd in ever so lawful an Affair, that will not justify the Murder of a Subject; but I mention this, to shew, how apt illegal Practices are to draw People into the Commission of the foulest of Crimes. Gentlemen, we shall produce our Witnesses; two of them who were in the same Boat with the Defendant, and as they were then present, could not but have an Opportunity of observing every Circumstance that happen'd. They are Persons, who (I believe) had no Design of commiting Murder; but the Prisoner, by accepting the Musket, previous to the Murder, can hardly be suppos'd to have received it, but with a View to make Use of it; and it appears that he did endeavour to make Use of it; but Providence prevented his using it as he intended; it did not go off; upon that, he turn'd it, and made use of the But-end, and beat the Deceased over-board in the Execution of his Duty; tho' that is not necessary to the Question before you. We say, he gave him, with the But-end of the Musket, many repeated Blows; that the poor Man could not stand them, but was at last beat into the Sea, and was drown'd. This will appear from 2 Witnesses, who were in the same Boat with the Defendant, and will be confirmed to you, by many Circumstances, and will be prov'd by the Persons who were in the Custom-House Boat. When we have produc'd these Witnesses and have given you such Evidence as shall satisfy you with Regard to the Fact, we doubt not, but you will do Justice to your Country and find the Defendant Guilty.

Samuel Young. I know the Prisoner; his Name is *Richard Ignell*. He came in the Year 33, *May* 6th, to *Rawley*'s House at *Piddenhoe*, to tell him there were Brandies to be sold on Board *Richard Burleigh*'s Brig. After this *Richard Hood*, and *Nicholas Rawley*, and I went, and call'd upon the Prisoner, on board of a Collier; we took him with us, and all four went to *Burleigh*'s Brig.

Q. What did you do there?

Young. We bought 20 half Anchors of Brandy and one half Anchor of Wine.

Counc. Who bought these Goods?

Young. *Hood* and *Rawley*; they put them on board our Boat, and then we row'd away for the Harbour of *New Haven*. The Brig was about a Mile from thence, —— at Sea.

Counc. What Time o'Night was it, when you went out?

Young. About Ten o'Clock at Night, and it was very Star-light.

Counc. When the Night is Star-light, can't you see at a greater Distance, on the Sea, than on Land?

Young. Yes, we can discern a Boat at a great Way off; as we made to shore, with our Goods, we perceiv'd the Custom-House Boat coming up to us, tho' 'twas at some Distance from us; so we row'd Back to the Brig. but before we could get back to her, the Custom-House Boat came up to us; therefore we threw the Goods into the Sea, and row'd round the Brig. We threw the whole 21 half Anchors out of our Boat, into the Sea.

Counc. Who were in the Custom-House Boat?

Young. *Swain*, *Wood*, and *Wasser*; *Hood* was in our Boat, and we were rowing away from them, towards the Brig when we threw the Casks over-board; and *Burleigh* said to us, he was sorry for our Loss, —— if we would come aboard again, he would make us a Present of ten half Anchors of Brandy, instead of those we had paid for, and had lost. *Rawley* and *Hood* upon this Invitation went on Board again, and they put three Hand-spikes and a Musquet into the Boat, and the Captain bid them fetch the Boat and the Brandy again.

Counc. Did you observe any other Boat, at a Distance from the Brigantine?

Young. Yes; which was full of Brandy and no body was in it. *Swain*, *Wasser*, and the Deceased, row'd after that Boat, and they put the De-

Deceaſed on board it, and he was ſcudding away with it for *New Haven* Harbour. *Burleigh* obſerved it, and this was the Reaſon, that he put the 3 Handſpikes and the Gun into our Boat. The Priſoner took the Musket, and fearing Miſchief was unwilling to go in the Boat with them; therefore I got up the Side of the Ship, but they who were in the Boat, laid hold of me and pull'd me into the Boat again; then I went into the Stern, and they row'd after the Boat which the Deceaſed was carrying to Shore. When we came within 30 Yards of the Deceaſed, the Priſoner preſented his Musket at him, and ſnapp'd it ſeveral Times, but it did not go off. After this we came up cloſe to him, and the Priſoner turn'd the Piece, and ſtruck at him ſeveral Times. The Deceaſed turn'd about to avoid the Blows, and warded them off with his Hands, but at laſt he ſtruck him very hard over the Head, and he fell over-board directly. I cannot take upon me to ſay how many Blows he ſtruck him, ——— 'twas more than twice or thrice, but the fatal Blow was on the Head, which made him fall backward into the Sea. I don't know whether he ſank down directly, or not, but I never ſaw him afterward. I ſhov'd the Boats a part immediately, to ſee if I could take hold of him, but I never ſaw him any more; the Violence of the Blow ſtun'd him, I believe. When the Deceaſed was gone, we put two of our Men into that Boat, and brought her back to the Brig. and as ſoon as we came up, *Burleigh*, the Maſter, ſaid, —— *Lord have Mercy on us* —— *what have you done!* Mr. *Waſter* had got back to the Brig. before us, and told *Burleigh*, that they had kill'd one of his Men.

Q. Did the Cuſtom-Houſe Boat come up with the Deceaſed's Boat, before he was knock'd into the Sea?

Young. Yes; and after the Fact was done, they row'd to the Ship, and complained to *Burleigh* that the Man had been kill'd; and when we returned, *Burleigh* cry'd, *Lord! what have you been doing!* —— *why did you knock the Man over-board.* The Priſoner told him, the Deceas'd fell over-board himſelf, but I ſaid, —— No, you knock'd him over-board; to which the Priſoner made no Anſwer at all.

Q. What Diſtance was the loaded Boat from the Ship, which the Cuſtom Houſe Officers took a-drift?

Young. About a Mile when they took her.

Court. Was the Boat that you and the Priſoner was in, cloſe to that which the Deceaſed was in when he received the Blows?

Young. Yes; and the Priſoner was at the Head of our Boat, and the Deceaſed at the Stern of his; our Head was cloſe to his Stern.

Q. Did the Deceaſed ſtrike the Priſoner again?

Young. No, he had nothing to ſtrike him with, but the Oar, and that they knock'd out of his Hand preſently. He never ſtruck at all. The Cuſtom-Houſe Boat was near us at the ſame Time, the Boats were all together, and the Priſoner ſtruck at the Officers in the other Boat ſeveral Times.

Priſoner. I had no Muſquet in my Hands at all; and the Witneſs lay down on his Belly, in the Bottom of the Boat. I never was up at this *Rawley*'s Houſe in my Life.

Young. You was there the 6th of *May* 1733.

Q. Was the Deceaſed going from you, or coming towards you?

Young. He was going away, and we made after him.

Jury. We would aſk the Witneſs, whether he lay on his Belly in the Bottom of the Boat, during this Tranſaction?

Young. I was in the Stern of the Boat, ſitting up on my Backſide.

Nicholas Rawley. The Priſoner, on the 6th of *May* 1733, came to my Houſe, the Sign of the *Black-Horſe* at *Piddinhoe*, and told me, if I wanted to buy any Brandy, I might have it on board that Brig. Upon this, *Young*, *Hood*, and I went, and we call'd upon the Priſoner on board of a Collier, to go with us to the Ship, where we bought 20 half Anchors of Brandy, and one of Wine. As we were bringing the Goods aſhore, we ſaw the Cuſtom-houſe Boat, ſo we made away for the Ship again, but finding we were cloſely purſu'd, we threw all the Goods into the Sea, and the Maſter of the Ship told us, he would make us a Preſent of 10 half Anchors, for thoſe we had loſt.

Court. Did you obſerve any Boat a-drift, while you was there?

Rawley. Yes, the Ship's Boat was broke looſe, and was about an hundred Yards from it. When we had thrown our Goods over-board, we row'd up o' long ſide the Ship. *Hood* and I got into the Veſſel, and four Sailors got into the Boat, the Priſoner was one; three Handſpikes and a Muſquet were deliver'd them out of the Ship, and they went away after the Boat; I remain'd in the Veſſel. Soon after they had been gone, the Cuſtom Boat came up and told us, one of their Men was Murder'd. When the Priſoner return'd, the Captain came to the ſide of the Ship, and ſaid to him, *Lord have Mercy on you, how could you Murder the Man!* The Priſoner reply'd,—G—d d—mn him,

I did but just touch him with the But-end of the Musket. *Young* was in the Boat with them at the same Time.

Prisoner. I never was at your House, nor do I know where you live.

Rawley. I went to see the Prisoner in the *Marshalsea*, and he own'd there, that he was at my House.

Jury. Did you see *Young* lie down in the Boat?

Rawley. No; he was in the Stern of the Boat when he went away, and 'till I lost sight of him.

Thomas Wasper. I am a riding Officer; on the 7th of *May* 1733, about 11 o'Clock at Night, it being very Star-light, I saw a Boat at Sea, and suspecting it, I made after it; it turn'd back toward the Ship, and I could not overtake it, 'till it had just got up to the Ship; then they flung their Goods overboard, and we took up 7 half Anchors; but observing a Boat astern of the Ship, we went after that, and overtook it about a quarter of a Mile from the Ship. We found no Person in it, and 'twas full of half Anchors. I put the Deceased on Board it, to scull it to Shore, while we went to take up the rest of the Casks out of the Sea. We had no sooner left the Deceased, but we saw a Boat rowing after him, upon which we row'd up to his Assistance, and saw a Musket presented at him, but I saw no Fire, nor do I know in whose Hand it was. I was about half a dozen or half a score Yards distant, when the Piece was held out. I can't say I know the Prisoner, — our Business was to defend our selves, for they attack'd us with Handspikes. The Deceased in the Fray was lost, and the first Notice I had of it, was from my Partner's braying out, — *You have knock'd the Man overboard!* We went back to the Ship and complain'd, but they gave us no Answer, so we row'd back to the Boat the Prisoner was in, and he bid us keep off, for Fear of farther Mischief. The Deceased had no Weapon but an Oar, and that I saw floating in the Sea.

John Swain. I was assaulted at the same Time, and cast my self off to avoid the Blows; when I turn'd my Eye, the Deceased was gone, and sunk immediately.

Q. Could *Wood* the Deceased swim?

Swain. I knew him from his Youth; he never could swim.

Q. Do you know whether *Young* was in the Boat with the Prisoner?

Swain. I thought he was, and I challeng'd him by his Name at that Time; but I can't swear 'twas he. I am sure the Prisoner belong'd to *Burleigh*'s Vessel, and after they had knock'd the Man overboard, I call'd to them to desire their Assistance to look for him, but they made off, and never gave me any, but row'd away.

Prisoner. I took the Boat that the Deceased was in, to have been our Boat that was a-drift, and would have stopp'd it, but the Deceased shov'd out his Oar at us, and so fell over the Stern of the Boat, and the Custom-House Boat row'd over him.

The Jury acquitted the Prisoner.

3. Edward Jartel, of *London* Mariner was indicted: and the Indictment charges, that on the 8th of *September*, in the 6th Year of his present Majesty, within that Part of the Realm call'd *England*, the Governor and Company of the *Royal Exchange-Assurance*, by a certain Policy sign'd by *Pendarvis Kekewich*, their Secretary, and bearing as aforesaid, did insure the Sum of 1003 *l.* on any Kind of Merchandize, loaded, or to be loaded, and also on the Ammunition, Artillery, Tackle, Furniture and Boat, of and in a certain Vessel call'd the *Charming Sally*; and the Indictment charges, that the Prisoner being, *Sept.* 14. on Board the said *Charming Sally*, *alias* the *Fly*, on the High Seas, and within the Jurisdiction of the *Admiralty* of *England*, seven Leagues distant from *Zadeira*, in the Kingdom of *Spain*, the Ship aforesaid, did feloniously cast away and destroy, and cause to be cast away and destroy'd, with an Intent and Design to Prejudice the Governor and Company aforesaid, who by their Secretary, did sign and underwrite the said Policy, against the Form of the Statute, &c. and against the Peace, &c. And the Indictment farther charges, that the Prisoner minding and intending to prejudice such Persons who had underwrote, or should underwrite, any Policy of Insurance on the Ship aforesaid, on the 14th of *September*, being a Mariner on Board the said Ship, on the High Seas, &c. within seven Leagues from *Zadeira*, &c. the Ship aforesaid did cast away and destroy, and cause to be, &c. against the Form of the Statute, &c. And the Indictment farther charges, that the Prisoner on the said 14th of *September*, then being a Mariner on Board the said *Charming Sally*, *alias* the *Fly*, on the High Seas, &c. 7 Leagues distant from *Zadeira*, &c. the said Ship feloniously, &c. did cast away and destroy, and cause to be cast away, &c. to the Prejudice of the Governor and Company, &c. who did assure 1003 *l.* on the said Ship, &c.

The Councel open'd the Charge, and set forth, that in *August* 1732, this Ship was call'd the *Fly*, *George Chinnery* of *Ireland*, Master. That People were call'd together near *Cork* River, to consult about destroying it, and they promis'd their Assistance. That afterwards, they met at *Mallow*,

and in a Churchyard they agreed to alter the Name of the Ship, from the *Fly* to the *Charming Sally*, and Directions were given by the Owner, in what Manner ſhe ſhould be deſtroy'd. That ſhe was to be clear'd Outward for *Gallicia*, and there to be ſunk. The Mariners were *George* and *Edward Chinnery*, *Timothy Macmahon* and the Priſoner. That when they came off *Gallicia*, one of the Mariners bor'd Holes in the Ship, but ſhe not ſinking faſt enough, the Priſoner forc'd a Hole in her Bottom, with an iron Crow, and afterwards cut a Hole in her Outſide, that ſhe might ſink with more Expedition. That after ſhe was ſunk, the Mariners went before Don *Antonio Deçaſtro*, Governor of *Zadeira*, and gave an Account, that the *Charming Sally* from *Cork*, laden with Butter, Cheeſe, &c. was loſt in Diſtreſs of Weather. The Governor ſent Word to Mr. *Parker* at *Corunna*, and he caus'd Depoſitions to be made, in order to a Claim on the *Royal Exchange-Aſſurance* Company. That the Fact was contrary to a Statute of the 1ſt of Q. *Anne*. To another of the 4th of K. *George* 1. *Chap.* 12. *Sect.* 14. and to another of the 11th of K. *George* 1. Parag. 5.

Mr. *Keckwich* was ſworn, but a Defect appearing in the Indictment, the Priſoner was acquitted.

4, 5. Nicholas Holt, and John Brian otherwiſe O'Brian, late of *London* Mariners, were indicted, for that they on the 7th of *September*, in the 10th Year of his Majeſty's Reign, with Force and Arms, on the High Seas, &c. about half a League from *Leghorn*, then being Mariners on Board the *Dove* Brigantine, belonging to Perſons unknown, and whereof *Benjamin Hawes* was Maſter, felonioufly and piratically endeavour'd to make, and did make and cauſe to be made a Revolt in the ſaid Ship, againſt the Form of the Statute, &c. And the Indictment farther charges, that *Edward Johnſon*, *Nicholas Williams* and *Lawrence Senett*, Subjects of our Lord the King, and then Mariners on Board the ſaid Ship, having betray'd their Truſt, and turn'd Pirates, and the ſaid Ship, Apparel, Tackle, &c. val. 200 *l.* and 100 Hogſheads of Sugar, val. 100 *l.* 150 Bales of Tobacco, val. 150 *l.* 2 Bales of Velvet, val. 150 *l.* the Goods of Perſons unknown, then and there being in the ſaid Ship, and under the Care and Cuſtody of the ſaid *Hawes*, againſt his Will, &c. did piratically ſteal, take and run away with. And that the Priſoners on the Day and Year aforeſaid, did aid, aſſiſt, maintain, &c. the ſaid Pyrates to commit the ſaid Felony. And the Indictment farther charges, that after the ſaid Pyracies ſo committed by the ſaid *Johnſon*, *Williams*, and *Senett*, the Priſoners did felonioufly and pyraticaly, conſult, combine, and confederate with the ſaid Pyrates, they well knowing them to be Felons as aforeſaid.

The Councel having open'd the Charge, the Witneſſes were call'd.

Pierce Butler. I did not belong to the Ship my ſelf, but *Benjamin Hawes* was Maſter, by Relation: I belong'd to a *Spaniſh* Man of War, *Mark Forreſter* Commander.

I left that Ship about the 10th or 15th of *May* 1736, and the latter End of the ſame Month, I ſhipp'd my ſelf on board the *Lime Pink*, in the Mole of *Leghorn*, where I remain'd till the latter End of *July* following. Then *Andrew Downing*, *Williams*, *Senett*, and *O'Brian*, came on board and invited me aſhore. *O'Brian* aſked me, if I would go on board a *Tartane*? I told him I intended to proceed in the *Pink* I had ſhipp'd my ſelf in; he told me he could help me to a better Place, I ſaid I would accept of it if he could. Then *Williams* aſked me to come on board their Ship with them. and I went accordingly, and after we had drank pretty plentifully on board, *O'Brian*, *Williams*, *Downing*, and *O'Mara*, and I went on Shore at *Leghorn*, to the Sign of the *Ship and Mermaid*, and *Senett* follow'd us thither. The Priſoner *O'Brian* carry'd me to this Houſe to meet ſome of his Friends, who were to get me a better Place; but after we had drank half a dozen Flaſks of Wine, I told them I could ſtay no longer; but they urged me to ſtay there all Night, and I conſented. Then they call'd for Pen, Ink, and Paper, and *Omara* went into another Room and drew up a Paper,——what was done farther that Night I can't tell, but next Morning *O'Brian* told me I had ſigned the Agreement to run away with the Ship *Dove*, and her Cargo. I told them I knew nothing of it, and that I would go on board; but my Ship I found was got 3 or 4 Leagues to Sea without me; ſo I came back to them again. and inſiſted upon their dropping the baſe Deſign; but they met again at a Wine-Houſe, and *Downing* and I inſiſted upon it that the Articles ſhould be burn'd, and after many Words, *Williams* pull'd a Paper out of his Pocket, and burnt it over a Candle, telling us, if he knew who were the Perſons that diſcontinu'd ſo good a Deſign, he would blow their Brains out, ſo we parted. About the 14th or 15th of *Aug.* *Downing* and I went on

board

board the *Kintſale*, from thence Sir *Mark Forreſter* ſent us to the *Lazaretto*; while we were here, *O'Brian* came and told us, if we could get from the *Lazaretto*, the Company on board the *Dove* would conceal us. Accordingly about 3 or 4 o'Clock in the Morning, *O'Brian* and I left the *Lazaretto*, and got a board the *Dove*: *O'Mara* was the firſt Perſon I ſaw, he call'd *Williams* to us. *O'Brian* ſpake ſomething privately to him, and immediately *Williams* deſired us to go into the Hold, where we were conceal'd 'till 3 or 4 in the Afternoon, and then *O'Brian* knock'd at the Scuttle, and *Johnſon* came and let us up, and *Williams* asked us to eat ſome Fiſh and Oyl upon Deck, then I ſaw the Priſoner *Wolf*, which was the firſt Time. After we had eat and drank, *Williams* call'd *Wolf* and *O'Brian* into the Cabbin, I follow'd them in a few Minutes, and found the Cabbin Door ſhut, but I ſat down on a Cheſt before the Door, and overheard their Diſcourſe. *Williams* told them he had got the Articles that *O'Mara* had drawn up, and I heard them agree that *Williams* ſhould proceed Captain, *O'Brian* Mate, and *Wolf* Boatſwain. *Williams* asked *Wolf* to ſign the Articles; he ſaid, he could not Write, but he would ſet his Mark, and that was as well. *O'Brian* ſaid, get me a Pen and Ink, I will ſign them. *Wolf* ſaid, he had brought a Brace of Piſtols on board, and that *O'Brian* ſhould have one of them, and the other he would keep himſelf, and that they were loaded with a brace of Balls. *O'Brian* ſaid, that *O'Mara* could not keep a Secret, and that *Butler* (*meaning me*) did not come on board with a Deſign to be engag'd: Upon which *Wolf* ſaid, we'll put them to Death with the Captain.

Q. Can you take upon you to ſwear you knew *Wolf*'s Voice after ſo ſhort a Knowledge of him?

Butler. I heard his Name mention'd, and I heard him talk a great deal while we were eating the Fiſh and Oyl, and the other Men I knew before. As for the *Dutch-man* that was on board, they ſaid they would keep him 'till they came to the *Cape Nerd Iſlands*, and then they would beſtrit the Main Sheet with him. *O'Mara* and I, and the Captain's Boy *Walker*, were to be kept till they had got 3 or 4 Leagues to Sea, then we were to be put to Death. When *O'Brian* and I came firſt upon Deck out of the Hold, I heard *Wolf* ſay, that as the Captain was a ſtout Man, it would be proper for *Johnſon* to kill him. After the Captain was kill'd, *O'Mara* fell on his Knees before *Williams*, and begg'd his Life might be ſpar'd for 3 or 4 Days, that he might make his Peace with God, for he was not in a Condition to die, but *Wolf* replied ——G——d's Bl——d make all *Schoon*, or make all clear, that we may have no Tell-tales. I had no Suſpicion of any Thing 'till I came on board.

Q. Had you no Suſpicion when the Articles you mention'd before were burn'd?

Butler. I don't remember the Subſtance of the firſt Articles, and I know more of the 2d, than what I tell you, I heard of them in the Cabbin. When *Wolf* ſaid they muſt make all *Schoon*, he deſired *Williams* to load all the Muskets, that they might make ſure Work, and *Williams* ſaid he would, but I don't know whether they were loaded or not. I would have ſwam away to the Shore, but *O'Brian* told me, I ſhould be ſhot if I attempted it; ſo he and I were hid in the *Fore-caſtle*, till the Captain came aboard, which was about 10 at Night; he made no ſtay, but went to Bed, as ſoon as *Walker* had made it. About half an Hour afterwards, *Johnſon* came into the *Steerage* and called *Wolf*, I could ſee very plainly from the Steerage (where I then was) to the Cabbin; *Wolf* and *Johnſon* went into the Cabbin; *Wolf* ſeiz'd the Captain by the Throat, with one Hand, and held a cock'd Piſtol to him with the other, and *Johnſon* ſtabb'd him in the Breaſt with his Knife. This I ſaw myſelf, and heard *Walker* ask *Williams* what was the Matter, and whether he was hurt? *Williams* ſaid No, —— nothing was the Matter, and order'd the Men to put to Sea. *Walker* ſaid, if they put to Sea, he muſt acquaint the Captain, and going down accordingly, he found him dead; upon which he call'd out to *Williams* to have *Johnſon* laſh'd to the Ring bolts, for he had kill'd his Maſter, but *Johnſon* laid hold of him, and was about to ſtrike him; he got from him and jump'd over-board directly; *Johnſon* then ſtamp'd, and cry'd out, —— *Walker* is gone, —— we are all betray'd. *Wolf* and *O'Brian* then came upon Deck, and ran up to the Fore-top Sail, where they cut the *Gaskets*, that they might make to Sea with the more ſpeed, and *Senett* and the *Dutchman* looſen'd the Fore-ſail.

When the Priſoners came down from the Fore-top Sail, they made me and *Johnſon* get into the Boat, and row after the Boy, and becauſe we could not overtake him, *Johnſon* drew his Knife, and I was in as much dread of that, as *Walker* could be of the Water. We found the Boy got aboard of a Settee, ſo we row'd back to the Ship, and found *Williams* giving Orders; and *O Brian* was at the Helm. *Wolf*, ſeeing the Boats coming off, adviſed getting off in the Boat, but it was impoſſible. When the Boats came up, I was taken

in

in the Forecaſtle; *O Brian* was taken out of the Water, and *Wolf* was taken aboard likewiſe.

Q. Did the Priſoners obey the Command of *Williams*?

Butler. Yes; they obey'd as well as Others, and both cut the Gaskets, and *O Brian* afterwards ſteer'd.

Q. Was the Captain then living or dead?

Butler. I did not ſee him after the Wound was given by *Johnſon*; the Priſoners cut the Gaskets, and were making to Sea with the Ship, after the Wound was given. I can't tell whether he was dead or alive, when the Boats boarded us.

Q. What way had the Ship made, when the Boats came up?

Butler. About a Mile, or a Mile and a half; we were ſeized in leſs than an Hour after the Fact was committed.

Counc. Who cut the Cable?

Butler. *O Brian* brought a Hatchet to *Williams*, and ſaid, we ſhall ſtay here 'till we are taken, ſo *Williams* took the Hatchet, and chopp'd off the Cable at the *Windlace*; there was very little Wind, but we made all the Sail we could, from the Land, out to Sea.

Richard Walker. I was the Captain's Apprentice. On the 7th of *September*, about half an Hour after 9 o'Clock at Night, I came on board with the Captain; he went *aft*, on the Quarter Deck, and bid *Williams* give him a Dram, and order'd him to heave Anchor, when the Wind came off Land. Then I went down and made the Captain's Bed, and after he was in Bed, I lock'd the Door and left the Key in it, and went up upon Deck. *Derrick* the *Dutchman* and I, eat our Supper on the Larboard ſide of the Ship, then I went to Sleep on the Quarter Deck, but was 'wak'd by a Scritch or a Groan; I got up and went round the Companion, and met *Johnſon* coming up with a bloody Knife in his Hand. *Williams* ſeem'd as if he had been aſleep, ſo I went to him and ask'd him if he was hurt; if 'twas he that made that Noiſe? He told me No, and that perhaps 'twas the Captain in a Dream. *Senett*, *Derrick*, *Williams* and *Johnſon* were all then on Deck. *Senett* and the *Dutchman* were ſhifting the Handſpikes, and heaving Anchor. I ask'd *Williams* why they weigh'd Anchor? He ſaid — D——n you, the Captain order'd me to do it when I thought proper, Upon this, I went down for my Shoes, and look'd into the Cabbin. —— The Floor I found all over Blood, and my Maſter dead. I ran up, and ſaw *Williams* on the *Larboard-Side* of the *Gangway*, and told him the Capt. was dead. *Johnſon* cry'd, G—d d—mn you, you Dog, you ſhall be the next, and he immediately run to me, to ſtab me, but I gave him a Knock, and the Knife flew out of his Hand; he cry'd, *Kill the Dog, don't let him jump overboard*, but I did, and ſwam to the *Settee*, and a Guard Boat carry'd me to the *Mole*, where I diſcover'd them. I had ſeen the Priſoners on Board, about a Week before; *Wolf*, I was acquainted with, he had been aboard to ſee me, ſeveral Times, but I don't remember any Thing of them, when I jump'd overboard.

Q. Did you ſee them on Board, the Night the Murder was committed?

Walker. No: I ſaw none but our Ship's Company; they did not belong to our Ship.

Counc. Did you obſerve any Preparations to put the Ship under Sail, before you leap'd overboard?

Walker. Yes, *Senett*, and the *Dutchman*, were heaving the Anchor, ſo I jump'd overboard and ſwam to the Guard Boat; they carry'd me to the *Engliſh* Ships, who ſent out their Boats preſently, but I ſtay'd on Board the *Levant*.

Counc. Did you ſee the Ship under Sail?

Walker. I ſaw her making to Sea, while I was ſwimming from her, and while I was in the Guard Boat, going to the *Engliſh* Ships, I ſaw her under Sail, but ſhe had not made above a Mile, becauſe there was very little Wind.

Counc. How does the Steerage lie, with reſpect to the Cabbin?

Walker. Cloſe to the Cabbin: If the Door opens in the Steerage, you may ſee all that is done in the Cabbin. I ſaw the Ship next Morning, and found the Gaskets were cut, and the Cable likewiſe.

Q. When did you ſee the Priſoners after the Fact was committed?

Walker. In 2 or 3 Hours afterward; when they were brought aboard the Ships: I ſaw them when they were taken.

Wolf. I would ask *Walker*, if I did not belong to a Ship, in the *Mole*, at the ſame Time?

Walker. Yes; I know he did.

Wolf. Whether he ever ſaw me converſe with *O'Brian*, before I was in *Newgate*?

Walker. Not as I know of: I never heard any Thing of him, either Good or Bad, before.

Wolf. Was not I Boatſwain of the *London Merchant*, Burthen about 110 Tons?

Walker. Yes; and our Ship was much of the ſame Burthen.

O'Brian. I ask whether he ſaw me, ſix Weeks before the Fact, on board the *Dove*?

Walker. I can't ſay whether he was or not. I have

have seen them both very often before, but I can't say whether they were either of them on Board, six Weeks before.

Court. Do you know whether *O'Brian* belong'd to any Ship?

Walker. I don't know that he did.

O'Brian. I would ask him whether I was not taken out of the *Kingsale* by the *Spaniards*, and carry'd to the *Lazaretto* to perform *Quarentine*?

Walker. I do not know that, from my own Knowledge.

An Objection arose, That in the Indictment, the Felony and Piracy was charg'd to have done, while Capt. *Hawes* was Master, and that the Goods were taken out of his Custody, whereas, by the Evidence it appear'd, that Capt. *Hawes* was dead; and the Indictment charg'd the Facts to have been in the Life-time of the Captain.

To this Objection the Councel reply'd, That they submitted to the Court, whether the aiding and assisting the Felons, after the Death of the Captain, was not within the Intention of the Statute. That though several Acts of Piracy were charg'd in the Indictment, the Jury need not find them all. If they found a Piracy committed by the Mariners, and that the Prisoners were aiding in that, or any one committed by the others, they would be as guilty as if they were found to have join'd in more. That they had shewn an Act of Piracy committed, and that the Prisoners had been aiding and assisting; and they submitted to the Court, whether it was of any Signification, whether the aiding and assisting, &c. was before or after the Death of the Captain. It was farther urg'd, That there were three Charges in the Indictment; that the second was, for corresponding, &c. with Pirates, knowing them to be so; that the Prisoners obey'd the Commands of *Williams*, by helping to put the Ship under Sail; and that their obeying his Orders, was a Proof of the Combination and Conspiracy. That notwithstanding this, they would beg Leave to abide by the last Charge in the Indictment, which was for concurring, consulting, and corresponding with them as Pirates, which would bring the Prisoners within the Statute of the 8th of K. *Geo.* the 1st. That in Order to prove this last Charge, it was necessary to shew what was done, and how far the Prisoners were concern'd, after the Captain was Murder'd. That *Walker* had sufficiently done that, who swore the Prisoners assisted in putting the Ship under Sail.

Mr. *Rogers.* After I had receiv'd *Walker*'s Information, I went on board the *Dove*, as soon as ever we had Mann'd our Boat. I am 2d Mate of the *Levant*, Capt. *Joseph Glyde*. When the Boy *Walker* came on Board, and told us what had happen'd, we arm'd our Boat, and there were 4 more went out mann'd and arm'd with us, in Pursuit of the Ship.

When we came pretty near the Ship, the Prisoner *OBryan* jump'd into the Sea, in order to make his Escape, but Capt. *Cartwright*'s Boat took him up, and brought him on Board the Vessel. *Wolf* we found under the Starboard Side of the main Deck: We then went down to look for the Captain (as soon as we could get a Light, for they would give us none) and we found him with his Hand and the Wound and his Face as black as my Hat. He was wounded in 2 Places, at 2 or 3 Inches Distance, and lay on the Cabbin Floor cover'd with a Sheet. His Scrutore was broke open, and his Watch was found upon *Williams*. We did our best Endeavour to carry the Ship into the Mole, but the Wind was scant, so we were forced to bring our Boats a-head and tow her along. When our People got up into the Sails to furl them, they found the *Gaskets* cut, and the Cable was cut likewise. I suppose they cut them for haste, and was sooner done, than they could unloosen them.

Q. Was the Evidence *Butler* on Board at the same Time?

Rogers. Yes, I took him my self in the Forescuttle.

Wolf. I never saw this Gentleman in my Life. I desire *Andrew Clark* may be call'd, who is a Prisoner in *Newgate*.

Andrew Clark. I know *Butler* the Witness very well. He has from Time to Time complain'd to me, that the two Prisoners abus'd him on the *Common Side*. They quarrell'd together, and made their Complaints to me. I asked them the Meaning of it, and the Prisoners told me, that *Butler* quarrell'd with the Boys, and they were asham'd of his Actions. *Butler* us'd to perplex me about this, and one Morning, in particular, he came to my Bedside, and said, he could not bear the Prisoner's Usage. I said, your Hardships are great enough already, can't you agree among your selves? Well, says he, it does not signify, if I swear my Soul to Hell, I'll be reveng'd on them: This was about the latter End of *April* last.

Court. And how long have you been in *Newgate*?

Clark. About three Years. *Butler* was then on the *Common Side* too, and he said, if he swore his Soul to Hell, he'd be reveng'd. The next

Day he came to me, and ſaid, *Clark*, you have been along while in *Newgate* only for 5*l* if you'll do one Thing for me, I'll pay the Money, and put more in your Pocket. I ask'd him what I muſt do? Why, ſays he, theſe Men have us'd me ill, and all you have to do, is to ſwear you heard them conſeſs the Conſpiracy, and if you'll do this, I'll make you a free Man, and will put Money into your Pocket. *Mark Mitchell* was by at the ſame Time, when he ſaid, he'd ſwear his Soul to Hell, to be reveng'd on them; and ſince that, he has ſent me ſeveral Letters to encourage me to do the Thing.

Q. Did he ſay what Sort of a Conſpiracy this was?

Clark. No, he only ſaid, he was concern'd in the Ship——in the Deſign of running away with the Ship. Theſe are the Letters that came from him to me; I am ſure they are his Hand-writing.

Counc. Why, when you were both in *Newgate* together, could not he come to you without Letters?

Clark. He was on the *Maſter Side* then, and there's no Communication with the Common Side, but by Letters.

A Bundle of Letters were produc'd and read: Some of which follow. *Sept.* 10. 1737. To Mr. *Clark*. Common Side. " Mr. *Clark*. I received " your laſt by *Swinney*, but he was ſo drunk, " that I could not perſwade him to ſtay for an " Anſwer, elſe I had ſent one by him. If Mr. " *Rayner*, or Mr. *A*——— can't adviſe you, " where the *French* Gentleman lives, it's more " than I can do You ſay you have all the Let- " ters I ſent *OBryan* in your Keeping, I know " there is nothing in them, in Prejudice to me. " Next Week I hope to have the Felicity of my " Liberty, and aſſure your ſelf, I will ſerve you, " as far as in me lies. Yours *Pierce Butler*.

To Mr. *John OBryan*. Common Side. *Newgate*. *Aug.* 4. 1737. " Mr. *OBryan*. I receiv'd " yours, and obſerv'd the Contents; which I " could have told you at large, before I left you. " As for *Walker*'s Swearing, you are ſenſible 'tis " not in his Power to do you the leaſt Prejudice: " I was inform'd of the Contrivance between " him and *Wolf*, before I parted from you, and I " had a Suſpicion you knew it, but it will not " prejudice you I have had the Advice of " Councel on the Affair, but you may depend on " the Sincerity of your conſtant Friend, who nei- " ther now, nor then wiſhes you Harm, and who " will always be glad to hear from you. More " in my next; Love to *Clark*, tell him, 'tis " ſtrange I don't hear from him, I hope he will " ſoon enlarg'd by the Benefit of the Act.

I am your Friend and well wiſher,
Pierce Butler.

To Mr. *O'Brian*. *Aug.* 5. 1737.

Dear Jack,

" I Obſerv'd the Contents of your Letter, and " ſhew'd it to an Attorney that came to ſee " me, he is one that my Father wrote to, that I " might expect him a Fortnight hence, he was " then ill at *Briſtol*, but by a Letter I receiv'd " from him, I find he is better, as ſoon as he " comes here he will get Bail for me to appear at " the next Court, which will not be 'till next " *Oct.* if it be not then, 'twill be in *Sept.* or *March* " next, which is a great while to the Time. The " Carpenter (*Richardſon*) is in the *Marſhalſea*, and " has been there this Fortnight. I have ſent an " Attorney to get a Copy of my Examination, " which is a very great Favour you'll find. You " will I hope think better of me, than that I " ſhould pay 5*l* for a damn'd Whore, the Mo- " ney was paid laſt *Monday* to the Attorney, ſo " my Service to Mr. *Clark*, and tell him, when " my Father comes to Town he ſhall not lye for " 5*l*. I will enquire where he lodges, and will " ſend an Attorney to him, and he ſhall find out " innocently, what he has to ſay about us.

I am your Friend and well wiſher,
Pierce Butler.

N. B. I ſend Snuff by the next.

For Mr. *O'Brian*. Common Side, *Newgate*.

Dear Jack, *Aug.* 8, 1737.

" I Receiv'd both your Letters this Day, the " *Jigger* forgot to deliver it me on *Saturday*, " ſo I got them both together. The Attorney's " Clerk has been here with me, to whom I have " ſhewn your Letters. His Maſter is at *Canter-* " *bury*, and was not at Home on *Sunday*, but he " will go to *Walker* and talk with him, to know " what he has to ſay. I expect Letters from my " Father on *Sunday*, and will let you know what " *Walker* has ſaid. The Copy of the Affidavit I " will ſend you, there's nothing in it to your Pre- " judice. Let me know if *Wolf* and you agree, " and whether he has any Subſiſtance. My Ser- " vice to Mr. *Clark*. *Fitzgerald* offers me a Place, " and I agreed for 45*l*. with Meat, Drink, &c. " ſo I hope I ſhall have an Opportunity to go to " Sea again. I deſire you would ſhew none of

" my

" my Letters, especially the Affidavit to my " Friend *Wolf*, &c.

I am, &c.

Pierce Butler.

Dear Jack, *Aug.* 15, 1737.

" I Receiv'd yours this Day, and observ'd the " Contents; your Letter I will forward to my " Brother, and order him to enquire for your Fa- " ther, and represent your Condition to him. You " can't have a better Time than this, to have a " true Account whether he is dead or alive, and " also to see if your Uncle will remit you any " Thing. Give my Service to *Clark*, and tell him " the *French* General, who is Head Officer of the " *Irish* Regiments, wrote to the Lieutenant Colo- " nel, and presented his Case very feelingly, and " I hope he will do something for you. No more, " I am with true Zeal,

Dear Jack, yours,

I send Snuff per the Bearer.

Pierce Butler.

Dear Jack, *Sept.* 1, 1737.

" I Receiv'd your several Letters, and observ'd " the Contents; be so good as to let me know " which of the Runners gave himself Airs to " talk of me. The Woman did take Care of me " for 4 or 5 Days while I was ill, which caused a " Suspicion that I was a Favourite that Way, and " you know how jealous they are, to entertain " such Suspicions of our Country Men, the Pud- " ding eaters, tho' you know we are seldom out " of Pocket about them. I expect *Richard Wal-* " *ker* and the Attorney to come to Day; so to- " Morrow I shall write more largely to you. " Every one on this Side the Jayl has had a vehe- " ment Cold for this Week past, and I have been " very much disorder'd. Service to *Clark*, I am " with true Zeal,

Your Friend and well wisher,

Pierce Butler.

Dear Jack, *Sept.* 10, 1737.

" YOurs I receiv'd this Day, and assure you " that it was not Negligence that occasion'd " my Silence, but one of the Prisoners going a- " way, and drinking with me disorder'd me so " much, that if it had not been for the Care of " the good Woman in Jayl, I should have been " in great Danger. I receiv'd a Letter from my " Brother, and have ill News from *Bristol*, my " Father is dead, and it makes me distracted,

I am your Friend, &c.

Pierce Butler.

N. B. I send Snuff to-Morrow by the Bearer.

Several other Letters were read which we have not Room to insert.

Mark Mitchell. One Morning this *Butler* came down to *Clark*, and told him, the Prisoners a- bus'd him in the *Stone Hole*, and he would not (he said) be so abus'd, but would be reveng'd on them if he swore his Soul to Hell. This was the latter End of *April*, or the beginning of *May*, I was then lying on the Barrack a-bed. He nam'd *Wolf* and *O Brian*, that they had abus'd that Night.

Coun. Pray what are you in *Newgate* for?

Mitchell. For assaulting my Wife, and I am to be there a Year. *Butler* was in *Newgate*, on the same Account with the Prisoners, but he has been admitted an Evidence.

The Jury acquitted both the Prisoners,

6. 7. **Robert White**, and **James Ware**, late of *London*, Mariners, were indicted, for that they not having God before their Eyes, &c. on the 26th of *December*, in the 10th Year of his present Majesty, they then being in a certain Sloop, called the *George*, on the High Seas, and within the Jurisdiction of the Admiralty, &c. one League from a certain Place call'd *Bencoolen*, on *Thomas Heath*, in the Peace of God and in the said Sloop then being, did make an Assault, and *Robert White*, with both his Hands, the said *Heath*, over the Sides of the said Sloop, towards the Sea, feloniously, &c. did lift and throw, by Reason of which lifting and throwing over the Sides of the said Sloop, by him the said *White*; He the said *Heath* did fall into the Seas, and in the Waters of the said Seas, was suffocated and drowned, of which suffocating and drowning, he died. And *James Ware*, at the Time of committing the said Felony and Murder, was present, aiding, abeting, assisting, maintaining and comforting the said *White*, him the aforesaid *Heath* to kill and murder, and so the Indictment charges, that the said *White* and *Ware*, him the said *Heath* did kill and murder, against the Peace, &c.

The Counsel having open'd the Charge, the Witnesses were call'd, and at the Prisoner's Request, the Witnesses were examin'd a-part.

Thomas Lucam. Last *Christmas-Day* at Night, the *George* Sloop, came aboard the *Duke of Lorrain*, with

with Salt Petre, and the Master of the Sloop, *Heath*, came on board the *Duke of Lorrain*, and spake to our *Chief Mate*, on the *Main-Change*; then he call'd to the two Prisoners in the Sloop, and bid them bear a Hand and sling the Salt Petre on Board the *Lorrain*. He gave them good Words, but the Prisoners said, the Deceased had as much Business to work as they had, tho' 'tis not usual for the Master to work; but they curs'd and swore, and vow'd they'd do his Business. I was leaning over the Side of the *Lorrain*, and heard every Word. Both the Prisoners used the same Expressions, and both threaten'd to do his Business, and that he should not be Patron of that Sloop a-ny longer, damning and sinking and calling him all the good for nothing Son of a Bitch, that they could think of; and they told him that after that Night, he should go no more Master of that Sloop. I heard it between 11 and 12 o'Clock, but they began about 7 o'Clock, to make the Noise, and I call'd the Deceased out of the *Main-Change*, and bid him not mind them, and I told him, if he would come in with me, I'd give him a Tiff of Punch. He came and took one Drink, and went out again about his Business, and soon after, he return'd into his own Sloop. About 12 o'Clock, I saw him upon his Cabbin, and after that, he was lost, and was no more heard of. He could not go off to shore, because there were no Boats for him to go off in, and we were about three Miles from the Shore, our Boats were ashore, and the Sloop had none. We had lighten'd the Sloop that Night, and the remaining Part of the Salt Petre, we took in next Morning; we then enquired for the Deceased, and the Prisoners said, they did not know where he was. Our Chief Mate searched the Ship fore and aft, but he was not to be found.

Court. Was any Information given to the Deputy Governor of *Bencoolen* of this Affair?

Lucam. Yes; we were call'd ashore on the same Account; I, *Henry Webb*, and *Archibald Williams*, who kept Watch that Night on our Quarter Deck. The Prisoners were before the Deputy Governor, but I was not present at their Examination.

Q. Was the Body ever found;

Lucam. No, never. I remained at *Bencoolen*, about a Fortnight or three Weeks afterward, and from thence to *Batavia*, and during all this Time the Man was never heard of.

Q. What Time of the Day did the Sloop first come to your Ship?

Lucam. It came o'long side of us, about six o'Clock in the Evening, the Prisoners slung some of the Salt Petre from the Sloop, and our People hoisted it into our Ship, and they continu'd working thus about 2 Hours that Evening.

Q. Who were in the Sloop beside the Prisoners?

Lucam. Another white Man, and two black Men; they were all in the Sloop that Night.

Q. Was there any Quarrel after they had left off Work?

Lucam. Yes: *Ware* would not let the Master go to his proper Cabbin to sleep; but he swore D—mn his Blood he should not come there that Night: He (*Ware*) had, he said, as much Business there as the Deceased, and he should not come within the Cabbin Door that Night. Then I saw the Deceased come and sit down, on the Top of the Cabbin, and he laid his Elbow on the Top of the *Boom*, there he was, when I bid him Good-night. He was not fuddled, nor at all disguis'd in Liquor.

Q. If he tumbled off the *Boom*, could he tumboverboard?

Lucam. Yes; he might: He might fall asleep and roll overboard.

Jury. Is it usual for Sloops to come so late in the Evening?

Lucam. No; but we were in a Hurry to lade, and the Sloop had made 2 Trips that Day.

The Jury acquitted the Prisoners.

The Trials being ended, the Court proceeded to give Judgment.

Receiv'd Sentence of Death 1.

John Richardson.

The next ensuing Court of ADMIRALTY to be held at the *Common-Hall*, in *Doctor's Commons*, on *Tuesday January* 3.

GOD Save the KING.

Ex. J. M.
10/31/12